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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,912	07/23/2003	Leland S. Swanson	TI-24974.2	8884

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EXAMINER

CLEVELAND, MICHAEL B

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

10/625,912

SWANSON, LELAND S.

Examiner

Art Unit

Michael Cleveland

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 17 is rejected under 35 U.S.C. 102(e) as being anticipated by Himeshima et al. (U.S. Patent 6,469,439, hereafter '439). (Namiki et al. (U.S. Patent 5,399,936) is cited as evidence regarding claim 8 that the work function of gold is about 5.1 eV.)

'439 teaches a method for forming a pixel of an electroluminescent display (col. 1, lines 1-15), comprising:

providing a substrate (1) including a first series of substantially parallel and spaced apart electrodes (i.e., contacts) (2) (col. 5, lines 10-13; Figs. 1-3);

forming a hole-transporting layer (5) (i.e., a first transport layer) outwardly of the first series of contacts (2) (col. 6, lines 36-46, col. 9, lines 60-61, Fig. 2);

selectively depositing a plurality of emissive strips (red, green, and blue) (6) outwardly of the first transport layer (5), the emissive strips comprising a repeating pattern of disparate emissive strips (col. 5, lines 11-27; col. 6, lines 36-46; Figs. 1-2);

forming an electron-transporting layer (7) (i.e., a second transport layer) outwardly of the plurality of emissive strips (6) (col. 11, lines 6-14; col. 6, lines 36-46; Fig. 2); and

Art Unit: 1762

forming a second series of substantially parallel and spaced apart electrodes (i.e., contacts) (8) outwardly from the second transport layer (7) and over the plurality of emissive strips (6), the second series of contacts substantially parallel to the first series of contacts (col. 5, lines 11-26; Figs. 1-2).

The EL device may be a flat panel display (col. 1, lines 10-14). The substrate may be transparent, and the electrodes (2) may comprise metal (col. 5, line 49-col. 6, line 13).

3. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by WO99/20080 for substantially the same reasons given above (Himeshima '439 is used as a translation because it is a division of the national stage application of international application PCT/JP97/03721, which matured into WO99/20080.)

Response to Arguments

4. Applicant's arguments filed 10/8/2004 have been fully considered but they are not persuasive.

Applicant's arguments that the claims do not teach the claimed method steps are unconvincing because the claim is a product-by-process claim, and Applicant has not pointed to any structural difference between the product as claimed and the product of the prior art. See MPEP 2113, which states in part:

**PRODUCT-BY-PROCESS CLAIMS ARE NOT LIMITED TO
THE MANIPULATIONS OF THE RECITED STEPS, ONLY
THE STRUCTURE IMPLIED BY THE STEPS**

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Art Unit: 1762

Conclusion

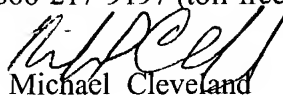
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cleveland whose telephone number is (571) 272-1418. The examiner can normally be reached on Monday-Thursday, 7-5:30.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Cleveland
Primary Examiner
Art Unit 1762

12/15/2004